

**FILED**

MAY 19 2008

Hearings Unit, OIC  
Patricia D. Petersen  
Chief Hearing Officer

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STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE OFFICE OF THE INSURANCE COMMISSIONER

IN THE MATTER OF:

Lawyers Title Insurance Corporation

Docket No. 2008-INS-0004

**RESPONSE BY LAWYERS TITLE  
INSURANCE CORPORATION TO  
NOTICE OF HEARING**

TO: Honorable C. Robert Wallis  
Administrative Law Judge  
Office of Administrative Hearings  
2420 Bristol Court S.W., P.O. Box 9046  
Olympia, Washington 98507-9046

Lawyers Title Insurance Corporation ("Lawyers"), by and through its undersigned counsel, hereby responds to the Office of the Insurance Commissioner's ("OIC") Notice of Hearing as follows:

**1. PARTIES AND JURISDICTION**

1. Responding to paragraph 1.1, Lawyers admits that the Insurance Commissioner is authorized to regulate the business of insurance and to enforce the insurance laws of the State of Washington in accordance with Title 48 RCW.

1           2.       Responding to paragraph 1.2, Lawyers admits that it is authorized to transact  
2 the business of insurance in the State of Washington and that it is subject to Title 48 RCW  
3 and Chapter 284 WAC.

4           3.       Responding to paragraph 1.3, Lawyers denies that jurisdiction is appropriate.  
5 RCW 48.30.010(5) is the statutory provision that, under certain circumstances, authorizes  
6 fines for "unfair or deceptive acts or practices" pursuant to the regulations promulgated by the  
7 OIC, such as WAC 284-30-800. It provides:

8           If the commissioner has cause to believe that any person is violating any such  
9 regulation, the commissioner may order such person to cease and desist  
10 therefrom. The commissioner shall deliver such order to such person direct or  
11 mail it to the person by registered mail with return receipt requested. If the  
12 person violates the order after expiration of ten days after the cease and desist  
13 order has been received by him or her, he or she may be fined by the  
14 commissioner a sum not to exceed two hundred and fifty dollars for each  
15 violation committed thereafter.

16           The OIC has not issued a cease and desist order to Lawyers, which is a jurisdictional  
17 prerequisite to any imposition of a fine with respect to the alleged acts at issue. Lawyers  
18 denies that jurisdiction is appropriate under RCW 48.02.060, RCW 48.05.185, or RCW  
19 48.04.010.

## 2. FACTS

20           4.       Responding to paragraph 2.1, Lawyers admits that, subject to various  
21 conditions and limitations, it has appointed Cascade Title Company of Clark County  
22 ("Cascade Title"), an independent contractor, to solicit applications for title insurance, collect  
23 premiums and issue and countersign title insurance policies, binders, commitments to insure  
24 and endorsements in Clark County, Washington. Lawyers denies the remaining allegations in  
25 paragraph 2.1 for lack of information or knowledge.

26           5.       Responding to paragraph 2.2, Lawyers denies that on or about May 15, 2007,  
the OIC initiated an investigation of Lawyers. The OIC alleges only that it commenced an  
investigation and audit of Cascade Title at its business office in Vancouver, Washington. The

1 OIC does not allege that the OIC gave Lawyers formal notice of the initiation of an  
2 investigation of Cascade Title, and Lawyers denies the allegations relating to the OIC's  
3 investigation of Cascade Title for lack of information or knowledge.

4 6. Responding to paragraph 2.3, Lawyers denies, for lack of information or  
5 knowledge, the allegations relating to what the OIC's alleged investigation of Cascade Title  
6 revealed, including any specific allegations regarding Cascade Title's conduct. Lawyers  
7 denies that any violations of WAC 284-30-800 occurred.

### 8 3. APPLICABLE LAW AND ALLEGED VIOLATIONS

9 7. Responding to paragraph 3.1, Lawyers admits the legal requirements of WAC  
10 284-30-800(2), but denies that the provisions of that regulation are applicable to Lawyers in  
11 this matter.

12 8. Responding to paragraph 3.2, Lawyers admits the legal requirements of WAC  
13 283-30-800(3), which describe the persons referenced in WAC 284-30-800(2), but denies that  
14 the provisions of that regulation are applicable to Lawyers in this matter.

15 9. Responding to paragraph 3.3., Lawyers denies that it violated WAC 284-30-  
16 800 through the conduct of Cascade Title, an independent contractor. Lawyers denies that it  
17 gave inducements, payments or rewards exceeding twenty-five dollars in value, per person  
18 per year, to real estate agents and brokers, mortgage loan brokers or lenders, and builders, in  
19 relation to the instances alleged in paragraph 2.3. Lawyers denies that any violations of WAC  
20 284-30-800 occurred.

### 21 4. SANCTIONS REQUESTED

22 10. Lawyers objects to the OIC's request for sanctions on the basis that the OIC  
23 lacks the legal authority to impose said fine. The statute cited by OIC, RCW 48.05.185, does  
24 not apply to this proceeding. It authorizes the OIC to "levy a fine upon [an] insurer in an  
25 amount not less than two hundred fifty dollars and not more than ten thousand dollars" only  
26 "in addition to or in lieu of the suspension, revocation, or refusal to renew any certificate of

1 authority." RCW 48.05.185. The OIC has not initiated proceedings to suspend or revoke  
2 Lawyers' certificate of authority, nor has it refused to renew the certificate. RCW  
3 48.30.010(5) is the statutory provision that, under certain circumstances, authorizes fines for  
4 "unfair or deceptive acts or practices" pursuant to the regulations promulgated by the OIC,  
5 such as WAC 284-30-800. It provides:

6 If the commissioner has cause to believe that any person is violating any such  
7 regulation, the commissioner may order such person to cease and desist  
8 therefrom. The commissioner shall deliver such order to such person direct or  
9 mail it to the person by registered mail with return receipt requested. If the  
10 person violates the order after expiration of ten days after the cease and desist  
11 order has been received by him or her, he or she may be fined by the  
12 commissioner a sum not to exceed two hundred and fifty dollars for each  
13 violation committed thereafter.

14 The OIC has not issued a cease and desist order to Lawyers and lacks the authority to  
15 impose such a fine against Lawyers. Even if the OIC had authority, RCW 48.30.010(5)  
16 expressly limits any such fine to not more than \$250.00 per violation.

#### 17 **5. NOTICE OF HEARING**

18 11. Lawyers denies that it violated a regulation effectuated by the Commissioner  
19 pursuant to his authority under RCW 48.02.060, and that the sanction requested is authorized  
20 under the law.

#### 21 **AFFIRMATIVE DEFENSES**

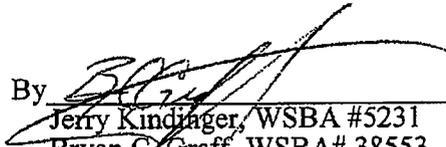
22 BY WAY OF FURTHER RESPONSE, Lawyers alleges the following affirmative  
23 defenses:

- 24 1. Lack of jurisdiction.
- 25 2. Failure to state a claim upon which relief can be granted.
- 26 3. Lawyers reserves the right to allege additional affirmative defenses, and to  
amend and supplement this Response, based upon future discovery in this case.

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DATED this 19th day of May, 2008.

RYAN, SWANSON & CLEVELAND, PLLC

By   
Jerry Kindiger, WSBA #5231  
Bryan C. Graff, WSBA# 38553  
Attorneys for Respondents

**FILED**

**MAY 19 2008**

Hearings Unit, OIC  
Patricia D. Petersen  
Chief Hearing Officer

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IN THE MATTER OF:

Lawyers Title Insurance Corporation

Docket No. 2008-INS-0004

**RESPONSE BY LAWYERS TITLE  
INSURANCE CORPORATION TO  
NOTICE OF HEARING**

I, Valerie Dominique, declare and state as follows:

I am a citizen of the United States, over the age of 18 years, not a party in the foregoing action, and am competent to testify as a witness. I am employed by the law firm of Ryan, Swanson & Cleveland PLLC, and my business address is 1201 Third Avenue, Suite 3400, Seattle, Washington 98101.

On May 19, 2008, I caused a true and correct copy of: (1) Response by Lawyers Title Insurance Corporation to Notice of Hearing; and (2) this Declaration of Service to be served via facsimile and U.S. Mail, first class postage prepaid, on the following:

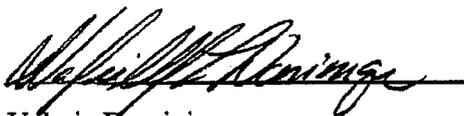
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Thomas P. Rowland  
Staff Attorney, OIC Legal Affairs  
P.O. Box 40255  
Olympia, Washington 98504-0255  
Facsimile: (360) 586-3535

Patricia D. Peterson  
Chief Hearing Officer  
Hearings Unit, OIC  
P.O. Box 40255  
Olympia, Washington 98504-0255  
Facsimile: (360) 664-2782

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct to the best of my knowledge

EXECUTED this 19<sup>th</sup> day of May, 2008.



Valerie Dominique